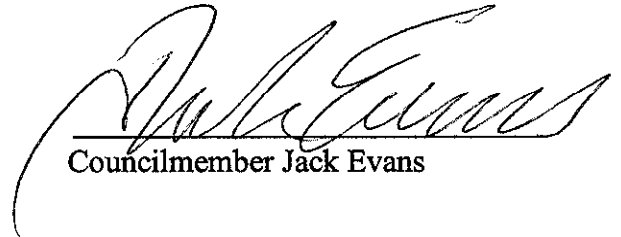


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Councilmember Kathy Patterson

  
Councilmember Jack Evans

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8 Councilmember Carol Schwartz  
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12 A BILL  
13 \_\_\_\_\_  
14

15 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA  
16 \_\_\_\_\_  
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18  
19 Councilmember Kathy Patterson introduced the following bill, which was referred to the  
20 Committee on \_\_\_\_\_.  
21

22 To require law enforcement agencies to retain records and preserve evidence from open  
23 homicide, sexual assault, and other violent crime cases for 50 years; to provide for certain  
24 requirements related to the disposal of evidence; to provide for penalties for violations of  
25 this act, and to amend An act providing a permanent form of government for the District  
26 of Columbia to conform with this act.  
27

28 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this  
29 act may be cited as the "Millicent Allewelt Act of 2002".

30 Sec. 2. Definitions.

31 For the purposes of this act, the term:

32 (1) "Biological material" means a sexual assault forensic examination kit, semen,  
33 vaginal fluid, blood, saliva, observable skin tissue, or hair which apparently derived from the  
34 perpetrator of a crime or, under circumstances that may be probative of the perpetrator's identity,  
35 apparently derived from the victim of a crime.

1           (2) "Case jacket" means the primary file for an investigation which contains all of  
2 the investigative reports, papers, and documents specific to the investigation, including notes,  
3 transcripts of interviews, witness statements, photos, and audio and video tapes.

4           (3) "Closed investigation" means the investigation of a crime wherein the suspect  
5 or, in a case with multiple suspects, all of the suspects, have:

6           (A) Been arrested, charged with the commission of the crime, and convicted by a  
7 court of law; or

8           (B) Been arrested, charged with the commission of the crime, and pleaded guilty  
9 of committing the crime.

10          (4) "Crime scene examination case file" means the primary file for an  
11 investigation's crime scene which contains investigative documents and reports; toxicology,  
12 DNA testing, and other forensic examination results; evidence reports; photographs; and other  
13 documents pertaining to the investigation.

14          (5) "DNA" means deoxyribonucleic acid.

15          (6) "DNA testing" means forensic DNA analysis of biological material.

16          (7) "Law enforcement agencies" means the Metropolitan Police Department, the  
17 Corporation Counsel for the District of Columbia, prosecutors, or any other governmental  
18 agency that has the authority to investigate, make arrests for, or prosecute or adjudicate District  
19 of Columbia criminal or delinquency offenses. The term "law enforcement agencies" shall  
20 include law enforcement agencies that have entered into cooperative agreements with the  
21 Metropolitan Police Department pursuant to Section 11712 of the Balanced Budget Act of 1997,  
22 approved August 5, 1997 (111 Stat. 783; D.C. Official Code § 5-133.17), to the extent the law

1 enforcement agency is acting pursuant to such a cooperative agreement.

2 (8) "Open investigation" means the investigation of a crime wherein there is the  
3 possibility of a prosecution of the individual or individuals responsible and no suspect or, in a  
4 case with multiple suspects, not all of the suspects, have:

5 (A) Been arrested, charged with the commission of the crime, and been convicted  
6 by a court of law; or

7 (B) Been arrested, charged with the commission of the crime, and pleaded guilty  
8 of committing the crime.

9 (9) "Records retention schedule" means a document listing all of the records  
10 originating in the Metropolitan Police Department, specifying series of records to be retained  
11 permanently, and authorizing on a continued basis the destruction of other series of records after  
12 a specified time period has elapsed.

13 Sec. 3. Retention of records and preservation of evidence from open homicide, sexual  
14 assault, and violent crime investigations.

15 (a) Law enforcement agencies shall retain for 50 years from the date the crime is first  
16 reported to the law enforcement agency the case jackets and crime scene examination case files  
17 for open investigations of:

18 (1) Homicides;

19 (2) Sexual assaults;

20 (3) Assaults with intent to kill where there is biological material evidence;

21 (4) Aggravated assaults where there is biological material evidence; and

22 (5) Assaults with a deadly weapon where there is biological material evidence;

1           (b)     Law enforcement agencies shall retain and preserve for 50 years from the date the  
2 crime is first reported to the law enforcement agency evidence from open investigations of:

3                   (1) Homicides;

4                   (2) Sexual assaults;

5                   (3) Assaults with intent to kill where there is biological material evidence;

6                   (4) Aggravated assaults where there is biological material evidence; and

7                   (5) Assaults with a deadly weapon where there is biological material evidence;

8     The evidence shall be preserved in such a manner, including if necessary by refrigeration, as to  
9 maintain the ability to conduct forensic testing, including DNA testing.

10          (c)     Law enforcement agencies shall not be required to preserve evidence pursuant to  
11 subsection (b) of this section that is of such a size, bulk, or physical character as to render  
12 retention impracticable. If practicable, law enforcement agencies shall remove and preserve  
13 portions of evidence if such portions contain sufficient evidence to permit future DNA or other  
14 forensic testing. When it is not practicable to preserve evidence pursuant to this subsection, law  
15 enforcement agencies shall photograph the evidence before disposing of it. When it is not  
16 practicable to preserve evidence in its entirety but portions of it are preserved pursuant to this  
17 subsection, law enforcement agencies shall photograph the evidence:

18                   (1) Prior to removing portions of the evidence; and

19                   (2) After removing portions of the evidence and before disposing of it.

20          (d) Photographs of evidence created pursuant to subsection (c) of this section shall be  
21 retained in the crime scene examination files of the corresponding investigation.

22          (e) Law enforcement agencies shall retain the case jackets and crime scene examination

case files for 25 years after the case is closed and pursuant to the Innocence Protection Act of 2001 for closed investigations of:

- (1) Homicides;
- (2) Sexual assaults;
- (3) Assaults with intent to kill where there is biological material evidence;
- (4) Aggravated assaults where there is biological material evidence; and
- (5) Assaults with a deadly weapon where there is biological material evidence.

(f) Law enforcement agencies shall retain and preserve evidence from closed investigations pursuant to the Innocence Protection Act of 2001.

(g) Records and evidence from open homicide cases shall not, under any circumstance, be destroyed or disposed of without the written approval of the chief of the Metropolitan Police Department and without prior consultation between the Metropolitan Police Department and the United States Attorney for the District of Columbia.

#### Sec. 4. Penalties; private right of action.

(a) Whoever willfully or maliciously destroys, alters, conceals, or tampers with evidence or records that are required to be preserved and retained in accordance with this act shall be subject to:

(1) Administrative sanctions, if the individual is an employee of the District of Columbia government, up to and including termination; and

(2) A fine of \$5,000, imprisonment for one year, or both.

(b) Whoever willfully or maliciously destroys, alters, conceals, or tampers with evidence or records that are required to be preserved and retained in accordance with this act may be the

1 subject of a civil action in the Superior Court of the District of Columbia.

2 Sec. 5. Records retention schedule.

3 The Metropolitan Police Department shall issue a records retention schedule consistent  
4 with this act.

5 Sec. 6. Conforming amendment.

6 Section 6 of An act providing a permanent form of government for the District of  
7 Columbia, approved June 11, 1878 (20 Stat. 107; D.C. Official Code § 5-113.07), is amended to  
8 read as follows:

9 “All records of the Metropolitan Police Department shall be preserved, except that the  
10 Mayor, upon recommendation of the chief of the Metropolitan Police Department and only  
11 pursuant to the Millicent Allewelt Act of 2002, may cause records which it considers to be  
12 obsolete or of no further value to be destroyed.”.

13 Sec. 7. Fiscal impact statement.

14 The Council adopts the fiscal impact statement in the committee report as the fiscal  
15 impact statement required by section 602 (c)(3) of the District of Columbia Home Rule Act,  
16 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

17 Sec. 8. Effective date.

18 This act shall take effect following approval by the Mayor (or in the event of a veto by the  
19 Mayor, action by the Council to override the veto), a 60-day period of Congressional review as  
20 provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December  
21 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of  
22 Columbia Register.